

[Advisory Opinion 1992-11]
ADVISORY OPINION 92-36

The Ethics Commission has reviewed your request for advice dated October 13, 1992. The Ethics Commission understands the facts which form the basis for your request are as follows:

In the spring of 1992, several Montgomery County police officers attended an honor guard seminar held by the Baltimore County Police Department. At the seminar, a representative of a funeral home emphasized the importance of using a casket for training purposes and spoke about the possibility of having a casket donated by a funeral home. Accordingly, a police Sergeant who attended the seminar asked another police officer to look into the possibility of obtaining a donated casket from a local funeral home. As a result of a request made by this police officer to a funeral home, a casket was donated to the Police Department for use by the police honor guard. The funeral home has indicated to the Police Department that the casket has no present value because of its age. You have asked if the Police Department may retain the donated casket for use by the Police honor guard.

Section 19A-16 generally prohibits a public employee from soliciting any gift during official work hours or while identifiable as a public employee.¹ Section 19A-16(b)(3) provides that a public employee may solicit a gift during official work hours for the benefit of a County agency if the solicitation is authorized by the County Executive in an Executive Order. While the facts related in your opinion request are silent on this matter, the Ethics Commission assumes, for purposes of this advisory opinion, that the casket was solicited by a police officer during official work hours or while identifiable as a public employee without benefit of an Executive Order authorizing the solicitation. Based on these assumed facts, the casket was improperly obtained.

Section 19A-16(f) provides that a public employee who received a gift which the employee should not accept under the ethics law must either return the gift to the donor or transfer the gift to the County. Since the casket has been transferred to the control of the Police Department, the Ethics Commission believes that under Section 19A-16(f) the casket may be retained by the County for County use.

The Commission trusts that you will find this advisory opinion responsive to your inquiry. If you have further questions regarding this matter, please contact the Ethics Commission.

Date of Issue: 12/14/92

¹ Unless otherwise indicated, section references are to the Montgomery County Code (1984).